

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

THOMPSON DENSMORE
ST. PIERRE,

Defendant/Movant.

Cause No. CR 12-03-GF-BMM

ORDER STAYING MOTION UNDER
28 U.S.C. § 2255

On March 10, 2014, Defendant/Movant Thompson Densmore St. Pierre filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. St. Pierre is a federal prisoner proceeding pro se.

St. Pierre asserts the United States did not introduce sufficient evidence to prove his Indian status. He also claims counsel was ineffective for failing to raise the issue in his motion under Fed. R. Crim. P. 29 and on appeal. Mot. § 2255 (Doc. 51) at 4 ¶¶ 5A-B, 7-9.

Although St. Pierre's motion does not cite the case, his reasoning is similar to that employed by a panel of the Court of Appeals in *United States v. Zepeda*, 738 F.3d 201, 210 (9th Cir. 2013) (following *United States v. Maggi*, 598 F.3d 1073, 1080 (9th Cir. 2010), and *United States v. Bruce*, 394 F.3d 1215, 1223 (9th Cir. 2005)). The panel opinion has been withdrawn pending rehearing en banc. *See*

Zepeda, 742 F.3d 910 (9th Cir. Feb. 10, 2014). Oral argument was held on June 18, 2014, but a decision has not yet been issued.

The en banc decision in *Zepeda* may bear on the issues presented in St. Pierre's motion. Consideration of the § 2255 motion will be stayed pending the release of that opinion.

Accordingly, IT IS HEREBY ORDERED that consideration of the § 2255 motion (Doc. 51) is STAYED pending issuance of the en banc opinion in *United States v. Zepeda*, No. 10-10131 (9th Cir. filed Mar. 25, 2010).

St. Pierre must immediately notify the Court of any change in his mailing address by filing a "Notice of Change of Address." Failure to do so may result in dismissal of his § 2255 motion without notice to him.

DATED this 15th day of August, 2014.

/s/ Brian M. Morris
Brian M. Morris
United States District Court